

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JAMES MASON,

No. C-13-0592 EMC (pr)

Plaintiff,

v.

**ORDER DISMISSING FEDERAL  
CLAIMS AND REMANDING ACTION  
TO STATE COURT**A. KESTER, *et al.*,Defendants.  

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This *pro se* prisoner's civil rights action was originally filed in Monterey County Superior Court and later removed to federal court by Defendants because the complaint contained claims for, among other things, violations of Plaintiff's federal constitutional rights and therefore presented a federal question. Plaintiff then filed a series of motions that left the Court unsure as to whether he was trying to eliminate the federal question by dismissing the federal constitutional claims. The Court issued an order instructing Plaintiff to clarify whether he wanted to dismiss the federal claims so his action could return to state court or wanted to proceeding in federal court with all claims including his federal claims.


Plaintiff has filed a "request to dismiss federal claim without prejudice and remand back to state court." Docket # 10. Plaintiff's request is **GRANTED**. The claims for violations of Plaintiff's federal constitutional rights are **DISMISSED**. The dismissal of the federal claims is without prejudice to Plaintiff later filing a new action in federal court asserting those federal claims. With the dismissal of the federal claims, several state law claims pled in the complaint remain for adjudication. The Court declines to exercise supplemental jurisdiction over the state law claims now that the federal question claims have been dismissed. *See* 28 U.S.C. § 1367(c)(3). The case

1 therefore will be remanded to state court so that Plaintiff may litigate in his chosen forum. *See Swett*  
2 *v. Schenk*, 792 F.2d 1447, 1450 (9th Cir. 1986) (“it is within the district court’s discretion, once the  
3 basis for removal jurisdiction is dropped, whether to hear the rest of the action or remand it to the  
4 state court from which it was removed”); *Plute v. Roadway Package System, Inc.*, 141 F. Supp. 2d  
5 1005, 1007 (N.D. Cal. 2001) (court may remand *sua sponte* or on motion of a party). In light of the  
6 dismissal of the federal claims and remand to state court, all other pending motions are dismissed as  
7 moot. All further motions must be filed in state court.

8 The action is remanded to the Monterey County Superior Court for such other and further  
9 proceedings as that court deems proper. The Clerk shall close the file and send the necessary  
10 materials to the Monterey County Superior Court for the remand.

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12 IT IS SO ORDERED.

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14 Dated: May 24, 2013

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EDWARD M. CHEN  
United States District Judge